



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

SMC

Docket No: 0721-00

17 August 2000

TM [REDACTED] USN

Dear Petty Officer [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 17 August 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Navy Personnel Command dated 2 May 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. The Board noted your nonjudicial punishment (NJP) was for charges including dereliction of duty, so they found the NJP adequately supported your adverse mark in block 37 ("Personal Job Accomplishment/Initiative"). In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

721-00
1610
PERS-311
2 May 2000

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: PERS/BCNR Coordinator (PERS-00ZCB)

Subj: TM3(574) [REDACTED] USN [REDACTED]

Ref: (a) BUPERSINST 1610.10 EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests the removal of his performance evaluation for the period 16 March 1999 to 30 April 1999.

2. Based on our review of the material provided, we find the following:

a. A review of the member's headquarters record revealed the member was an E-4 at the time of the report. Since E-4 and below reports are not filed in the member's headquarters record, our comments are based on uncertified copies of the reports provided with the member's petition. The member signed the report acknowledging the contents of the report and his right to submit a statement. The member indicated he did desire to submit a statement. The member did not provide a copy of his statement and the reporting senior's endorsement. Per reference (a), Annex S, paragraph S-8, the member has two years from the ending date of the report to submit a statement.

b. The member alleges the performance report was wrongfully submitted. The performance evaluation for the period in question is a Special/Regular Report prepared on the occasion of the member receiving Non-Judicial Punishment.

c. Reference (a), Annex D, paragraph D-9 a.2.d. states: "Submission or Withdrawal of Enlisted Promotion (Advancement) Recommendation or Establishment of Performance Mark Average (PMA) (enlisted Only). Submit a Special Report if needed for an enlisted advancement cycle to: recommend a member for advancement who is not already in a recommended status; withdraw an advancement recommendation; or if a performance mark is needed to establish a PMA when no report which can be used for this purpose has been submitted in current rate. A Special report may not be submitted for the sole purpose of raising a PMA."

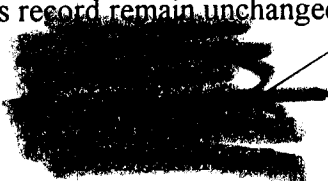
d. The performance evaluation appears to be procedurally correct. The reporting senior may properly comment or assign grades based on performance of duty or events that occurred during

the reporting period. Nothing provided in the member's petition demonstrates that the reporting senior acted improperly, violated requirements, or that he abused his discretionary authority in evaluating the member's performance.

e. A performance report does not have to be consistent with previous or subsequent reports. Each performance report represents the judgment of the reporting senior during a particular reporting period.

f. The member does not prove the report to be unjust or in error.

3. We recommend the member's record remain unchanged.

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Head, Performance
Evaluation Branch